



Sen. A. J. Wilhelmi

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1 AMENDMENT TO SENATE BILL 1051

2 AMENDMENT NO. _____. Amend Senate Bill 1051 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 changing Section 11-124-5 as follows:

6 (65 ILCS 5/11-124-5)

7 Sec. 11-124-5. Acquisition of water systems by eminent
8 domain.

9 (a) In addition to other provisions providing for the
10 acquisition of water systems or water works, whenever a public
11 utility subject to the Public Utilities Act utilizes public
12 property (including, but not limited to, right-of-way) of a
13 municipality for the installation or maintenance of all or part
14 of its water distribution system, the municipality has the
15 right to exercise eminent domain to acquire all or part of the
16 water system, in accordance with this Section. Unless it

1 complies with the provisions set forth in this Section, a
2 municipality is not permitted to acquire by eminent domain that
3 portion of a system located in another incorporated
4 municipality without agreement of that municipality, but this
5 provision shall not prevent the acquisition of that portion of
6 the water system existing within the acquiring municipality.

7 (b) Where a water system that is owned by a public utility
8 (as defined in the Public 16 Utilities Act) provides water to
9 customers located in 2 or more municipalities, the system may
10 be acquired by any ~~either~~ or all of the municipalities by
11 eminent domain ~~if there is in existence an intergovernmental~~
12 ~~agreement between the municipalities served providing for~~
13 ~~acquisition.~~ If the system is to be acquired by more than one
14 municipality, then there must be an intergovernmental
15 agreement in existence between the acquiring municipalities
16 providing for the acquisition.

17 (c) If a water system that is owned by a public utility
18 provides water to customers located in one or more
19 municipalities and also to customers in an unincorporated area
20 and if at least 70% of the customers of the system or portion
21 thereof are located within the municipality or municipalities,
22 then the system, or portion thereof as determined by the
23 corporate authorities, may be acquired, using eminent domain or
24 otherwise, by either a municipality under subsection (a) or an
25 entity created by agreement between municipalities where at
26 least 70% of the customers reside. For the purposes of

1 determining "customers of the system", only retail customers
2 directly billed by the company shall be included in the
3 computation. The number of customers of the system most
4 recently reported to the Illinois Commerce Commission for any
5 calendar year preceding the year a resolution is passed by a
6 municipality or municipalities expressing preliminary intent
7 to purchase the water system or portion thereof shall be
8 presumed to be the total number of customers within the system.
9 The public utility shall provide information relative to the
10 number of customers within each municipality and within the
11 system within 60 days after any such request by a municipality.

12 (d) In the case of acquisition by a municipality or
13 municipalities or a public entity created by law to own or
14 operate a water system under this Section, service and water
15 supply must be provided to persons who are customers of the
16 system on the effective date of this amendatory Act of the 94th
17 General Assembly without discrimination based on whether the
18 customer is located within or outside of the boundaries of the
19 acquiring municipality or municipalities or entity, and a
20 supply contract existing on the effective date of this
21 amendatory Act of the 94th General Assembly must be honored by
22 an acquiring municipality, municipalities, or entity according
23 to the terms so long as the agreement does not conflict with
24 any other existing agreement.

25 (e) For the purposes of this Section, "system" includes all
26 assets reasonably necessary to provide water service to a

1 contiguous or compact geographical service area or to an area
2 served by a common pipeline and include, but are not limited
3 to, interests in real estate, all wells, pipes, treatment
4 plants, pumps and other physical apparatus, data and records of
5 facilities and customers, fire hydrants, equipment, or
6 vehicles and also includes service agreements and obligations
7 derived from use of the assets, whether or not the assets are
8 contiguous to the municipality, municipalities, or entity
9 created for the purpose of owning or operating a water system.

10 (f) Before making a good faith offer, a municipality may
11 pass a resolution of intent to study the feasibility of
12 purchasing or exercising its power of eminent domain to acquire
13 any water system or water works, sewer system or sewer works,
14 or combined water and sewer system or works, or part thereof.
15 Upon the passage of such a resolution, the municipality shall
16 have the right to review and inspect all financial and other
17 records, and both corporeal and incorporeal assets of such
18 utility related to the condition and the operation of the
19 system or works, or part thereof, as part of the study and
20 determination of feasibility of the proposed acquisition by
21 purchase or exercise of the power of eminent domain, and the
22 utility shall make knowledgeable persons who have access to all
23 relevant facts and information regarding the subject system or
24 works available to answer inquiries related to the study and
25 determination.

26 The right to review and inspect shall be upon reasonable

1 notice to the utility, with reasonable inspection and review
2 time limitations and reasonable response times for production,
3 copying, and answer. In addition, the utility may utilize a
4 reasonable security protocol for personnel on the
5 municipality's physical inspection team.

6 In the absence of other agreement, the utility must respond
7 to any notice by the municipality concerning its review and
8 inspection within 21 days after receiving the notice. The
9 review and inspection of the assets of the company shall be
10 over such period of time and carried out in such manner as is
11 reasonable under the circumstances.

12 Information requested that is not privileged or protected
13 from discovery under the Illinois Code of Civil Procedure but
14 is reasonably claimed to be proprietary, including, without
15 limitation, information that constitutes trade secrets or
16 information that involves system security concerns, shall be
17 provided, but shall not be considered a public record and shall
18 be kept confidential by the municipality.

19 In addition, the municipality must, upon request,
20 reimburse the utility for the actual, reasonable costs and
21 expenses, excluding attorneys' fees, incurred by the utility as
22 a result of the municipality's inspection and requests for
23 information. Upon written request, the utility shall issue a
24 statement itemizing, with reasonable detail, the costs and
25 expenses for which reimbursement is sought by the utility.
26 Where such written request for a statement has been made, no

1 payment shall be required until 30 days after receipt of the
2 statement. Such reimbursement by the municipality shall be
3 considered income for purposes of any rate proceeding or other
4 financial request before the Illinois Commerce Commission by
5 the utility.

6 The municipality and the utility shall cooperate to resolve
7 any dispute arising under this subsection. In the event the
8 dispute under this subsection cannot be resolved, either party
9 may request relief from the circuit court in any county in
10 which the water system is located, with the prevailing party to
11 be awarded such relief as the court deems appropriate under the
12 discovery abuse sanctions currently set forth in the Illinois
13 Code of Civil Procedure.

14 The municipality's right to inspect physical assets and
15 records in connection with the purpose of this Section shall
16 not be exercised with respect to any system more than one time
17 during a 5-year period, unless a substantial change in the size
18 of the system or condition of the operating assets of the
19 system has occurred since the previous inspection. Rights under
20 franchise agreements and other agreements or statutory or
21 regulatory provisions are not limited by this Section and are
22 preserved.

23 The passage of time between an inspection of the utilities
24 and physical assets and the making of a good faith offer or
25 initiation of an eminent domain action because of the limit
26 placed on inspections by this subsection shall not be used as a

1 basis for challenging the good faith of any offer or be used as
2 the basis for attacking any appraisal, expert, argument, or
3 position before a court related to an acquisition by purchase
4 or eminent domain.

5 (g) Notwithstanding any other provision of law, the
6 Illinois Commerce Commission has no approval authority of any
7 eminent domain action brought by any governmental entity or
8 combination of such entities to acquire water systems or water
9 works.

10 (h) The provisions of this Section are severable under
11 Section 1.31 of the Statute on Statutes.

12 (i) This Section does not apply to any public utility
13 company that, on January 1, 2006, supplied a total of 70,000 or
14 fewer meter connections in the State unless and until (i) that
15 public utility company receives approval from the Illinois
16 Commerce Commission under Section 7-204 of the Public Utilities
17 Act for the reorganization of the public utility company or
18 (ii) the majority control of the company changes through a
19 stock sale, a sale of assets, a merger (other than an internal
20 reorganization) or otherwise. For the purpose of this Section,
21 "public utility company" means the public utility providing
22 water service and includes any of its corporate parents,
23 subsidiaries, or affiliates possessing a franchised water
24 service in the State.

25 (Source: P.A. 94-1007, eff. 1-1-07.)

1 Section 10. The Eminent Domain Act is amended by changing
2 Sections 15-5-10 and 20-5-5 and by adding Section 25-5-30 as
3 follows:

4 (735 ILCS 30/15-5-10)

5 Sec. 15-5-10. Eminent domain powers in ILCS Chapters 45
6 through 65. The following provisions of law may include express
7 grants of the power to acquire property by condemnation or
8 eminent domain:

9 (45 ILCS 30/3); Quad Cities Interstate Metropolitan Authority
10 Compact Act; Quad Cities Interstate Metropolitan
11 Authority; for the purposes of the Authority.

12 (45 ILCS 35/40); Quad Cities Interstate Metropolitan Authority
13 Act; Quad Cities Interstate Metropolitan Authority; for
14 metropolitan facilities.

15 (45 ILCS 110/1); Bi-State Development Powers Act; Bi-State
16 Development Agency; for the purposes of the Bi-State
17 Development Agency.

18 (50 ILCS 20/14); Public Building Commission Act; public
19 building commissions; for general purposes.

20 (50 ILCS 30/6.4); Exhibition Council Act; exhibition councils;
21 for council purposes.

22 (50 ILCS 605/4); Local Government Property Transfer Act; State
23 of Illinois; for the removal of any restriction on land
24 transferred to the State by a municipality.

1 (55 ILCS 5/5-1095); Counties Code; counties; for easements for
2 community antenna television systems.

3 (55 ILCS 5/5-1119); Counties Code; any county that is bordered
4 by the Mississippi River and that has a population in
5 excess of 62,000 but less than 80,000; for the operation of
6 ferries.

7 (55 ILCS 5/5-11001); Counties Code; counties; for motor vehicle
8 parking lots or garages.

9 (55 ILCS 5/5-15007); Counties Code; counties; for water supply,
10 drainage, and flood control, including bridges, roads, and
11 waste management.

12 (55 ILCS 5/5-15009); Counties Code; counties; for water supply,
13 drainage, and flood control.

14 (55 ILCS 5/5-30021); Counties Code; county preservation
15 commissions; for historic preservation purposes.

16 (55 ILCS 85/9); County Economic Development Project Area
17 Property Tax Allocation Act; counties; for the objectives
18 of the economic development plan.

19 (55 ILCS 90/60); County Economic Development Project Area Tax
20 Increment Allocation Act of 1991; counties; for the
21 objectives of the economic development project.

22 (60 ILCS 1/115-20, 1/115-30, 1/115-35, 1/115-40, 1/115-55, and
23 1/115-120); Township Code; townships with a population
24 over 250,000; for an open space program.

25 (60 ILCS 1/120-10); Township Code; townships; for park
26 purposes.

- 1 (60 ILCS 1/130-5); Township Code; townships; for cemeteries.
- 2 (60 ILCS 1/130-30); Township Code; any 2 or more cities,
3 villages, or townships; for joint cemetery purposes.
- 4 (60 ILCS 1/135-5); Township Code; any 2 or more townships or
5 road districts; for joint cemetery purposes.
- 6 (60 ILCS 1/205-40); Township Code; townships; for waterworks
7 and sewerage systems.
- 8 (65 ILCS 5/Art. 9, Div. 2); Illinois Municipal Code;
9 municipalities; for local improvements.
- 10 (65 ILCS 5/11-11-1); Illinois Municipal Code; municipalities;
11 for the rehabilitation or redevelopment of blighted areas
12 and urban community conservation areas.
- 13 (65 ILCS 5/11-12-8); Illinois Municipal Code; municipalities;
14 for acquiring land for public purposes as designated on
15 proposed subdivision plats.
- 16 (65 ILCS 5/11-13-17); Illinois Municipal Code; municipalities;
17 for nonconforming structures under a zoning ordinance and
18 for areas blighted by substandard buildings.
- 19 (65 ILCS 5/11-19-10); Illinois Municipal Code; municipalities;
20 for waste disposal purposes.
- 21 (65 ILCS 5/11-28-1); Illinois Municipal Code; municipalities;
22 for municipal hospital purposes.
- 23 (65 ILCS 5/11-29.3-1); Illinois Municipal Code;
24 municipalities; for senior citizen housing.
- 25 (65 ILCS 5/11-42-11); Illinois Municipal Code; municipalities;
26 for easements for community antenna television systems.

1 (65 ILCS 5/11-45.1-2); Illinois Municipal Code;
2 municipalities; for establishing cultural centers.

3 (65 ILCS 5/11-48.2-2); Illinois Municipal Code;
4 municipalities; for historical preservation purposes.

5 (65 ILCS 5/11-52.1-1); Illinois Municipal Code;
6 municipalities; for cemeteries.

7 (65 ILCS 5/11-52.1-3); Illinois Municipal Code; any 2 or more
8 cities, villages, or townships; for joint cemetery
9 purposes.

10 (65 ILCS 5/11-61-1); Illinois Municipal Code; municipalities;
11 for municipal purposes or public welfare.

12 (65 ILCS 5/11-61-1a); Illinois Municipal Code; municipality
13 with a population over 500,000; quick-take power for rapid
14 transit lines (obsolete).

15 (65 ILCS 5/11-63-5); Illinois Municipal Code; municipalities;
16 for community buildings.

17 (65 ILCS 5/11-65-3); Illinois Municipal Code; municipalities;
18 for municipal convention hall purposes.

19 (65 ILCS 5/11-66-10); Illinois Municipal Code; municipalities;
20 for a municipal coliseum.

21 (65 ILCS 5/11-68-4); Illinois Municipal Code; board of stadium
22 and athletic field commissioners; for a stadium and
23 athletic field.

24 (65 ILCS 5/11-69-1); Illinois Municipal Code; any 2 or more
25 municipalities with the same or partly the same territory;
26 for their joint municipal purposes.

1 (65 ILCS 5/11-71-1); Illinois Municipal Code; municipalities;
2 for parking facilities.

3 (65 ILCS 5/11-71-10); Illinois Municipal Code; municipalities;
4 for the removal of a lessee's interest in the leased space
5 over a municipally-owned parking lot.

6 (65 ILCS 5/11-74.2-8); Illinois Municipal Code;
7 municipalities; for carrying out a final commercial
8 redevelopment plan.

9 (65 ILCS 5/11-74.2-9); Illinois Municipal Code;
10 municipalities; for commercial renewal and redevelopment
11 areas.

12 (65 ILCS 5/11-74.3-3); Illinois Municipal Code;
13 municipalities; for business district development or
14 redevelopment.

15 (65 ILCS 5/11-74.4-4); Illinois Municipal Code;
16 municipalities; for redevelopment project areas.

17 (65 ILCS 5/11-74.6-15); Illinois Municipal Code;
18 municipalities; for projects under the Industrial Jobs
19 Recovery Law.

20 (65 ILCS 5/11-75-5); Illinois Municipal Code; municipalities;
21 for the removal of a lessee's interest in a building
22 erected on space leased by the municipality.

23 (65 ILCS 5/11-80-21); Illinois Municipal Code; municipalities;
24 for construction of roads or sewers on or under the track,
25 right-of-way, or land of a railroad company.

26 (65 ILCS 5/11-87-3); Illinois Municipal Code; municipalities;

1 for non-navigable streams.

2 (65 ILCS 5/11-87-5); Illinois Municipal Code; municipalities;
3 for improvements along re-channeled streams.

4 (65 ILCS 5/11-92-3); Illinois Municipal Code; municipalities;
5 for harbors for recreational use.

6 (65 ILCS 5/11-93-1); Illinois Municipal Code; municipalities;
7 for bathing beaches and recreation piers.

8 (65 ILCS 5/11-94-1); Illinois Municipal Code; municipalities
9 with a population of less than 500,000; for recreational
10 facilities.

11 (65 ILCS 5/11-97-2); Illinois Municipal Code; municipalities;
12 for driveways to parks owned by the municipality outside
13 its corporate limits.

14 (65 ILCS 5/11-101-1); Illinois Municipal Code; municipalities;
15 for public airport purposes.

16 (65 ILCS 5/11-102-4); Illinois Municipal Code; municipalities
17 with a population over 500,000; for public airport
18 purposes.

19 (65 ILCS 5/11-103-2); Illinois Municipal Code; municipalities
20 with a population under 500,000; for public airport
21 purposes.

22 (65 ILCS 5/11-110-3); Illinois Municipal Code; municipalities;
23 for drainage purposes.

24 (65 ILCS 5/11-112-6); Illinois Municipal Code; municipalities;
25 for levees, protective embankments, and structures.

26 (65 ILCS 5/11-117-1, 5/11-117-4, 5/11-117-7, and 5/11-117-11);

1 Illinois Municipal Code; municipalities; for public
2 utility purposes.

3 (65 ILCS 5/11-119.1-5, 5/11-119.1-7, and 5/11-119.1-10);
4 Illinois Municipal Code; municipal power agencies; for
5 joint municipal electric power agency purposes.

6 (65 ILCS 5/11-119.2-5 and 5/11-119.2-7); Illinois Municipal
7 Code; municipal natural gas agencies; for joint municipal
8 natural gas agency purposes.

9 (65 ILCS 5/11-121-2); Illinois Municipal Code; municipalities;
10 for constructing and operating subways.

11 (65 ILCS 5/11-122-3); Illinois Municipal Code; municipalities;
12 for street railway purposes.

13 (65 ILCS 5/1-123-4 and 5/11-123-24); Illinois Municipal Code;
14 municipalities; for harbor facilities.

15 (65 ILCS 5/11-124-5); Illinois Municipal Code; municipalities;
16 acquisition of water systems, including certain quick-take
17 powers.

18 (65 ILCS 5/11-125-2); Illinois Municipal Code; municipalities;
19 for waterworks purposes.

20 (65 ILCS 5/11-126-3); Illinois Municipal Code; municipalities;
21 for water supply purposes, including joint construction of
22 waterworks.

23 (65 ILCS 5/11-130-9); Illinois Municipal Code; municipalities;
24 for waterworks purposes.

25 (65 ILCS 5/11-135-6); Illinois Municipal Code; municipal water
26 commission; for waterworks purposes, including quick-take

1 power.

2 (65 ILCS 5/11-136-6); Illinois Municipal Code; municipal sewer
3 or water commission; for waterworks and sewer purposes.

4 (65 ILCS 5/11-138-2); Illinois Municipal Code; water
5 companies; for pipes and waterworks.

6 (65 ILCS 5/11-139-12); Illinois Municipal Code;
7 municipalities; for waterworks and sewerage systems,
8 including certain quick-take powers.

9 (65 ILCS 5/11-140-3 and 5/11-140-5); Illinois Municipal Code;
10 municipalities; for outlet sewers and works.

11 (65 ILCS 5/11-141-10); Illinois Municipal Code;
12 municipalities; for sewerage systems.

13 (65 ILCS 5/11-148-6); Illinois Municipal Code; municipalities;
14 for sewage disposal plants.

15 (65 ILCS 20/21-19 and 20/21-21); Revised Cities and Villages
16 Act of 1941; City of Chicago; for municipal purposes or
17 public welfare.

18 (65 ILCS 100/3); Sports Stadium Act; municipality with a
19 population over 2,000,000; for sports stadium purposes,
20 including quick-take power (obsolete).

21 (65 ILCS 110/60); Economic Development Project Area Tax
22 Increment Allocation Act of 1995; municipalities; for
23 economic development projects.

24 (Source: P.A. 94-1055, eff. 1-1-07.)

25 (735 ILCS 30/20-5-5) (was 735 ILCS 5/7-103)

1 Sec. 20-5-5. Quick-take.

2 (a) This Section applies only to proceedings under this
3 Article that are authorized in this Article and in Article 25
4 of this Act.

5 (b) In a proceeding subject to this Section, the plaintiff,
6 at any time after the complaint has been filed and before
7 judgment is entered in the proceeding, may file a written
8 motion requesting that, immediately or at some specified later
9 date, the plaintiff either: (i) be vested with the fee simple
10 title (or such lesser estate, interest, or easement, as may be
11 required) to the real property, or a specified portion of that
12 property, which is the subject of the proceeding, and be
13 authorized to take possession of and use the property; or (ii)
14 only be authorized to take possession of and to use the
15 property, if possession and use, without the vesting of title,
16 are sufficient to permit the plaintiff to proceed with the
17 project until the final ascertainment of compensation. No land
18 or interests in land now or hereafter owned, leased,
19 controlled, or operated and used by, or necessary for the
20 actual operation of, any common carrier engaged in interstate
21 commerce, or any other public utility subject to the
22 jurisdiction of the Illinois Commerce Commission, shall be
23 taken or appropriated under this Section by the State of
24 Illinois, the Illinois Toll Highway Authority, the sanitary
25 district, the St. Louis Metropolitan Area Airport Authority, or
26 the Board of Trustees of the University of Illinois without

1 first securing the approval of the Illinois Commerce
2 Commission.

3 Except as otherwise provided in this Article, the motion
4 for taking shall state: (1) an accurate description of the
5 property to which the motion relates and the estate or interest
6 sought to be acquired in that property; (2) the formally
7 adopted schedule or plan of operation for the execution of the
8 plaintiff's project; (3) the situation of the property to which
9 the motion relates, with respect to the schedule or plan; (4)
10 the necessity for taking the property in the manner requested
11 in the motion; and (5) if the property (except property
12 described in Section 3 of the Sports Stadium Act, ~~or~~ property
13 described as Site B in Section 2 of the Metropolitan Pier and
14 Exposition Authority Act, or water systems or water works to be
15 acquired pursuant to Section 11-124-5 of the Illinois Municipal
16 Code) to be taken is owned, leased, controlled, or operated and
17 used by, or necessary for the actual operation of, any
18 interstate common carrier or other public utility subject to
19 the jurisdiction of the Illinois Commerce Commission, a
20 statement to the effect that the approval of the proposed
21 taking has been secured from the Commission, and attaching to
22 the motion a certified copy of the order of the Illinois
23 Commerce Commission granting approval. If the schedule or plan
24 of operation is not set forth fully in the motion, a copy of
25 the schedule or plan shall be attached to the motion.

26 (Source: P.A. 94-1055, eff. 1-1-07.)

1 (735 ILCS 30/25-5-30 new)

2 Sec. 25-5-30. Quick-take; municipalities served by the
3 American Lake Water Company pipeline. Quick-take proceedings
4 under Article 20 may be used for a period of 12 months after
5 the effective date of this amendatory Act of the 96th General
6 Assembly for the public purpose of the acquisition of the
7 American Lake Water Company pipeline and any other real
8 property or personal property associated with the operation of
9 the pipeline, by one or more of the municipalities whose
10 residents receive Lake Michigan water transmitted through that
11 pipeline, namely, the Villages of Bolingbrook, Homer Glen,
12 Plainfield, Woodridge, and Romeoville.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law."